

VZCZCXRO6901

PP RUEHAG RUEHAST RUEHDA RUEHDBU RUEHDF RUEHFL RUEHIK RUEHKW RUEHLA
RUEHLN RUEHLZ RUEHNP RUEHPOD RUEHROV RUEHRS RUEHVK RUEHYG
DE RUEHTI #0300/01 1381303
ZNR UUUUU ZZH
P 181303Z MAY 09
FM AMEMBASSY TIRANA
TO RUEHC/SECSTATE WASHDC PRIORITY 8125
RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
RUEHVEN/USMISSION USOSCE PRIORITY 2489
RHEFDIA/DIA WASHINGTON DC PRIORITY
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0813
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC PRIORITY
RUEKJCS/SECDEF WASHINGTON DC PRIORITY

UNCLAS SECTION 01 OF 02 TIRANA 000300

SIPDIS

STATE FOR EUR/SCE

E.O. 12958: N/A

TAGS: [PGOV](#) [ENRG](#) [EFIN](#) [PREL](#) [PHUM](#) [AL](#)

SUBJECT: Embassy Tirana Weekly Report - FM Basha in the Dock

1. Foreign Minister Lulzim Basha has reasons to be confounded these days. He does not know yet whether the criminal case that has haunted him for the last two years for abuse of office over the construction of the road linking Albania with Kosova is closed for good or whether a new decision taken by the Supreme Court has opened it afresh. Two panels of the Supreme Court, ruling on two separate complaints related to the case against Basha, have taken decisions that apparently are in full contradiction with each other. Mr. Basha was accused by the Prosecutor's Office of alleged legal violations committed when he was Minister of Transportation overseeing the road construction process. Prosecutors claimed that the process leading to the signing of the contract with Bechtel Enka, a Turkish American joint-venture building the segment, contained serious violations and that the terms of the contract had improperly increased the cost to the Albanian tax payer to the amount of hundreds of million of Euros.

Case Dismissed! . . .

2. The case against Basha, however, entered a legal conundrum in November of last year when prosecutors extended the legal term period for the investigation by one month, a move that the defendants considered unjustified and illegal. What followed was a number of hearings at various levels of the judiciary that resulted in two decisions of the Supreme Court that appear at odds with one another. On April 10, 2009, a panel of the Supreme Court closed the criminal case against Basha on the arguments that, based on the decision of the Albanian lower courts, the prosecutors had committed serious procedural violations and extended the period of investigation beyond a reasonable limit. The Court consequently closed the case against Basha and reprimanded the PG's office for violating Basha's rights.

Or Not. . .

3. On April 29, 2009, a different panel of the Supreme Court, this one hearing an appeal by the Prosecutor's office against the lower Court decisions, found that the lower court rulings were invalid and that only the Supreme Court had the right to hear cases involving members of government. [NOTE: The Albanian Constitution says that the Supreme Court is the only body that can hear criminal cases involving members of government and Parliament. END NOTE.] The second decision has now left open the question of whether the Prosecutor's office could ask the Supreme Court to reconsider its April 10 decision to throw out the case against Basha - a decision now found to have been based on invalid lower court decisions.

Ina Rama in the Hot Seat

¶4. The Supreme Court decision of April 10 was seen by many in Albania as a serious blow to the reputation of Prosecutor General Ina Rama. While the view prevailed that the Court had taken an unprecedented decision [under political influence] that effectively deprived the PG's office from the right to bring charges against an individual, serious questions were also raised as to the reasons why the PG's office took such a long period of time to conclude the investigation against Basha. There is as of yet no argument to substantiate the rumors present among legal circles in Tirana that the decision was a result of a double play by case prosecutors and Basha's defense team to allow Basha off the hook. At a time when PG Ina Rama, however, had only two cases that required her direct attention, the Gerdec investigation and the case against Basha, any investigative slip on the part of the PG's office directly undermines her position. It is for this reason that her decision to either resurrect the case against Basha or close it forever is being watched carefully by the Albanian legal community.

Legal No-Man's Land for The FM

¶5. The end result of the dueling decisions is that Foreign Minister Basha remains in legal limbo. The April 29 ruling leaves the door open to a reopening of the investigation against Basha. However, PG Ina Rama has sent mixed signals since April 29 on whether or not her office would seek to restart the Basha investigation.

¶6. Quote of the Week:

"I want to emphasize that we arrive here without any prejudice or hidden agenda. Like always, we will let the facts speak for themselves." Excerpts from the statement of Ambassador Audrey

TIRANA 00000300 002 OF 002

Glover, head of the ODIHR Election Observation Mission to Albania, to the Albanian Press upon commencement of her mission in Albania.

WITHERS